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Calendar No. 767

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-531

# CUMBERLAND ISLAND NATIONAL SEASHORE, GEORGIA, WILDERNESS

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AUGUST 18 (legislative day, AUGUST 17), 1982.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

## REPORT

together with

## ADDITIONAL VIEWS

[To accompany S. 2569]

The Committee on Energy and Natural Resources, to whom was referred the bill (S. 2569) to declare certain lands in the Cumberland Island National Seashore, Georgia, as wilderness, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

### PURPOSE

The purpose of S. 2569, as reported, is to designate certain lands as wilderness or potential wilderness within the boundaries of Cumberland Island National Seashore in the State of Georgia.

### BACKGROUND AND NEED

Cumberland Island was established as a national seashore by Act of Congress on October 23, 1972, to preserve the scenic, scientific and historic values of the largest and most southerly barrier island off the coast of Georgia. Of the 36,878 acres within the seashore, 8,840 acres are proposed for designation as wilderness, and 11,718 acres are proposed for designation as potential wilderness by S. 2569.

The 1972 establishment legislation required a study of wilderness potential to be conducted and a report thereon to be submitted to Congress. The National Park Service has been conducting such a study, in conjunction with the development of a general management plan for the area. While the results of the study have not yet been submitted to the Congress, the wilderness proposed in this bill is understood to be

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in accord with the major elements of the preliminary conclusions of the study.

In accordance with the Act establishing Cumberland Island National Seashore (86 Stat. 1066), the seashore is to remain in its primitive state except for certain portions especially adaptable for recreation uses. No road or causeway from the mainland will be constructed.

Cumberland Island is 16 miles long by 5 miles wide. The Island has a 4,000 year history of human habitation. The plantation period ran from 1783 to 1862. Many mansions and cultivated fields were established on the Island. The high point in building on the Island was in the early 1900's as Thomas Carnegie, brother of financier Andrew, and other family members built and maintained a system of mansions and outbuildings on the Island. Some of the mansion complexes remain standing today such as Plum Orchard, Greyfield, Stafford and the Dungeness complex.

## LEGISLATIVE HISTORY

S. 2569 was introduced by Senators Mattingly and Nunn on May 25, 1982. S. 2569 is identical to the provisions in Section 2 of S. 1119 as passed the House of Representatives on December 15, 1981. A hearing before the Subcommittee on Public Lands and Reserved Water was held on June 24, 1982. The Administration supports S. 2569, if amended. The Administration amendment which was offered but not adopted, is perfecting in nature.

At a business session on August 13, 1982, the Committee on Energy and Natural Resources ordered S. 2569 favorably reported without amendments.

## COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on August 13, 1982 by unanimous vote of a quorum present recommended that the Senate pass S. 2569, without amendments.

The rollcall vote on reporting the measure was 18 yeas, no nays as follows:

| YEAS | NAYS |
|---|---|
| McClure | |
| Hatfield [1] | |
| Weicker [1] | |
| Domenici | |
| Wallop [1] | |
| Warner | |
| Humphrey | |
| Murkowski | |
| Nickles | |
| East | |
| Heinz | |
| Jackson | |
| Johnston | |
| Ford | |
| Matsunaga [1] | |
| Melcher [1] | |
| Tsongas | |
| Bradley | |

[1] Indicates vote by proxy.

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SECTION-BY-SECTION ANALYSIS

Subsection (a) would designate certain lands as wilderness and potential wilderness additions at Cumberland Island National Seashore, Georgia. About 8,840 acres would be designated wilderness and about 11,718 acres would be designated potential wilderness. Most of the potential wilderness is intertidal area owned by the State of Georgia. The bill provides for public notification of future wilderness boundary changes and for making maps available to the public.

Subsection (b) provides that a map and a description of the wilderness boundaries be filed with the authorizing committees of the Congress within six months of the date of enactment.

Subsection (c) designates the wilderness as the "Cumberland Island Wilderness" and provides that the area be administered in accordance with the relevant provisions of the Wilderness Act.

Since so many of the other barrier islands of the Atlantic Ocean along the eastern seaboard of the United States are in various stages of development, it is most appropriate that the majority of the lands of the Seashore be retained in, and restored to the maximum degree possible, to their natural state.

The Committee supports the compatibility and reinforcement which wilderness designation provides in assuring that the dynamic natural forces at play on the wilderness-designated portions of Cumberland Island National Seashore will continue basically unfettered by activities of man.

Some present human activities and structures and evidence of past activities remain on the landscape, but will phase out in time. The Committee notes some complexities introduced into the wilderness designation action by virtue of: (1) the implications of the retained rights (including vehicle use) granted to former landowners; (2) the need to restore, maintain and provide public access to the historical values of the Plum Orchard mansion bounded by the proposed wilderness; (3) the geologically unstable intertidal zones proposed as potential wilderness additions and (4) existing non-conforming uses of the intertidal areas and related channels. The legally retained private rights which exist shall not be adversely affected by the designation of wilderness or potential wilderness. The Committee does express its desire, however, that insofar as possible as practicable, all such rights, as well as the management activities of the National Park Service, be exercised in a manner as compatible as possible with the wilderness and potential wilderness addition designations.

To the extent it can legally do so, the National Park Service is expected to manage the potential wilderness areas as wilderness, according to the provisions of the Wilderness Act of 1964. Although portions of the island's existing primitive roads are included within the designated wilderness and potential wilderness areas, the Committee intends that while these access ways continue to exist for honoring retained private rights, the National Park Service may utilize these access ways for emergency purposes. The Committee intends that the National Park Service shall be permitted to respond in an adequate manner to any emergency that might occur within the designated wilderness or potential wilderness. Until all private rights expire or are terminated, National Park Service access within the designated wilderness or potential wilderness also will be permitted for essential law enforcement, and for administrative purposes necessary

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to meet minimum requirements for the administration of this area. The Committee intends that, wherever feasible, the use of non-motorized conveyance is preferred to the use of motorized conveyance. The Committee notes that nothing in the bill shall affect retained right agreements previously negotiated by the Government, nor shall the bill prejudice the standing of current private landowners in the negotiation of retained right agreements as part of future land sales, nor the renewal of special use permits in accordance with the established practices of the National Park Service.

The Plum Orchard mansion and grounds have been excluded from designation as wilderness or potential wilderness. That portion of Grand Avenue from Plum Orchard mansion to the southernmost wilderness boundary is designated as potential wilderness, and any part of it is intended to change to wilderness classification at such time that all retained rights for use of such road segments expire.

The Committee recognizes the need for access to Plum Orchard for purposes of public visitation and National Park Service restoration, rehabilitation and maintenance activities.

The National Park Service may provide access via the potential wilderness segment of Grand Avenue. The Committee does not intend that any motorized vehicle use of Grand Avenue should become a traditional or "established" use, as such term is used in the Wilderness Act, and all such motorized use shall be discontinued no later than the expiration of the last private, retained right to use any segment of the road. The Committee desires to be kept advised of the development of plans for access to Plum Orchard, and desires to be informed in writing of new access plans before they are implemented.

Existing utility lines may continue to be maintained by the minimum practical tools so long as the retained rights which require their existence remain. The Committee intends that the National Park Service be responsible for determining what constitutes the minimum practical tool(s) each time a maintenance activity is proposed.

Such tool(s) may include motorized vehicles and mechanical equipment if the National Park Service determines that the use of such tool(s) are(is) essential to repair and maintenance of the existing utility lines.

It is the intent of the Committee to allow for the continuation of the operation and maintenance of necessary navigation aids, dredging ranges and survey markers including those intended to assure proper alignments for the maintenance and use of the Kings Bay navigation channel. The agency responsible for these aids should consult with the National Park Service prior to taking actions other than routine maintenance within the wilderness and potential wilderness additions areas established by this Act.

The intertidal lands (those lands between mean high and mean low tides) within the boundary of the Seashore located north of Greyfield on the western side and north of Stafford Beach on the eastern side are designated as potential wilderness. These lands shall be classified as wilderness at such later time as title may be granted to the United States acting through the National Park Service. Since the channels, navigable by small craft, are not included within the wilderness or the potential wilderness additions, the existing uses of these channels for

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waterborne access or fishing shall not be affected or diminished. The Committee recognizes that these intertidal areas are unstable and subject to changes due to the tide and storm. Accordingly, the Committee feels that the wilderness map that is finally developed by the National Park Service should clearly set forth in writing the Committee's intent, as described in this paragraph, so as to preclude the need to publish new maps each time a physical change in the intertidal lands or channel configuration occurs.

### COSTS AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., August 16, 1982.*

HON. JAMES A. MCCLURE,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2569, a bill to declare certain lands in the Cumberland Island National Seashore, Georgia, as wilderness, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, August 13, 1982.

Based on this review, it is expected that no significant additional cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2569 as reported.

S. 2569 is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

S. 2569 would designate certain lands in the Cumberland Island National Seashore in Georgia, as wilderness and potential wilderness. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any additional, paperwork would result from the enactment of S. 2569.

### EXECUTIVE COMMUNICATIONS

The pertinent legislative reports and communications received by the Committee from the Department of the Interior setting forth Executive Agency recommendations relating to S. 2569 are set forth below:

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U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D.C., July 12, 1982.*

Hon. JAMES A. MCCLURE,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on S. 2569, a bill "To declare certain lands in the Cumberland Island National Seashore, Georgia, as wilderness, and for other purposes."

We recommend that the bill be enacted but call your attention to several major concerns which are discussed below.

Cumberland Island is the southernmost and largest of Georgia's offshore islands and is situated in the southeastern section of Georgia just north of the St. Marys River, which forms the Georgia-Florida State line. The seashore was established to protect the barrier island's outstanding natural, historical and recreational values and to provide for public outdoor recreation use and enjoyment of certain significant shoreline lands and waters of the United States.

Public Law 92-536, which established Cumberland Island National Seashore, required a wilderness review in accordance with sections 3(c) and 3(d) of the 1964 Wilderness Act. Public hearings were held on proposed wilderness in September 1977 in St. Marys and Atlanta, Georgia, but no wilderness plan was submitted to the Congress.

S. 2569 would designate about 8,840 acres in Cumberland Island National Seashore, Georgia, as wilderness and 11,718 acres as potential wilderness as shown on map number 640-20038 E, dated November 1981. The potential wilderness will be designated wilderness upon publication in the *Federal Register* of a notice by the Secretary of the Interior that all uses thereon inconsistent with the Wilderness Act have ceased.

We have serious reservations as to whether the lands to be designated as wilderness under S. 2569 meet the criteria set forth in the Wilderness Act. However, because wilderness designation will help maintain the area in its natural state to a greater degree than other environmental laws alone, and because of strong public support for the wilderness designation, we support enactment of this bill, if it is amended to reflect the concerns noted below.

The High Point/Half Moon Historic Zone, which comprises 490 acres, includes retained rights to three reserved estates and four potential reserved estates. These rights will continue in effect for approximately 90-100 years. Within this area proposed as potential wilderness are two parcels comprising 2 acres and 37 acres, respectively, which contain structures of possible historic significance. Detailed historic surveys of these structures have not been completed, and it is not possible at this time to predict whether stabilization, preservation and interpretation of these structures will be required under section 106 of the Historic Preservation Act of 1966 and its implementing procedures.

However, the requirements of section 106 may well conflict with the designation of these lands as wilderness, since the Wilderness Act defines wilderness as "natural" and "undeveloped" in character and devoid of "permanent improvements or human habitation." Maintaining

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the structures in perpetuity would seem to frustrate the intention of Congress that these lands eventually be designated as wilderness. At the same time, designating this acreage as wilderness would seem to frustrate Congress' intent that historic structures be preserved. We believe this apparent internal conflict within S. 2569 should be resolved before the bill is enacted into law.

Related to this are several roads—Grand Avenue, the High Point-Candler Road and the South Cut Road—which are shown on the map as access roads to the reserved estates. When the reserved estates terminate, these roads will apparently be designated wilderness and returned to a natural condition. The legislative history should address this issue of access and reclamation.

The Department of Defense has also expressed several concerns about the impact of this wilderness designation on military activities in the area, and we are currently working with that department to ensure that designation would not impede these activities. Specifically, Defense has expressed concern about a military ocean terminal and possible restrictions on military flights over the area to be designated as wilderness.

We would expect to continue the existing restrictive easements for the military ocean terminal at Kings Bay, Georgia. We would also expect to allow the military flights to continue. The bill or its legislative history should address this issue and clearly state the Congress intent with respect to these military activities in or within "sight and sound" of the wilderness area.

Finally, we recommend a perfecting amendment: On page 3, line 5, we would insert the words "Wilderness Act governing areas designated by that Act as" after the word "the". This amendment adds language which appears in all other National Park System wilderness legislation, and which appears to have been inadvertently dropped when the bill was printed.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD PAUL HODEL,
*Under Secretary.*

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## ADDITIONAL VIEWS OF MR. JACKSON

I strongly support the designation of wilderness and potential wilderness in the Cumberland Island National Seashore. Senators Mattingly and Nunn are to be congratulated for their dedication and hard work in bringing this matter before the Committee and Senate.

I am concerned, however, about certain language in the Committee Report regarding access to, and use of the area. For example, I am concerned about the language in the report expressing the view that the Park Service should have access to the area, including motorized access, for "administrative purposes." I feel that this language is too broad and think it establishes a bad precedent. I much prefer the language included in the House report making it clear that motorized access within the area is to be limited to emergency purposes. I am also concerned about the language in the Committee report indicating that the Park Service is to consider providing motorized access for visitors to historic Plum Orchard along Grand Avenue. I feel the direction in the House report stressing water-related access to this area is preferable.

With these reservations, I wholeheartedly support S. 2569 as reported from the Senate Committee on Energy and Natural Resources.

HENRY M. JACKSON.

### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2569 as reported.

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